

**SUPREME COURT OF SEYCHELLES**

---

**Reportable**  
[2022] SCSC  
CR27/2017

**REPUBLIC**  
(rep. by H Kumar)

and

**ALBERT ALEXANDER GEERS**  
(rep. by B Hoareau )

**Accused**

**Neutral Citation:** *R v Albert Geers and ors* CR 07/2017) [2022] SCSC ( 18 July 2022).

**Before:** Govinden CJ

**Summary:** Accused is convicted as charged.

**Heard:** 27 January 2022

**Delivered:** 18 July 2022

---

**ORDER**

Accused is convicted as charged under count 1 and 2

---

---

**JUDGMENT**

---

**GOVINDEN CJ**

**The charges**

1. The 1<sup>st</sup> and 2<sup>nd</sup> accused pleaded guilty to the 3<sup>rd</sup> and 4<sup>th</sup> counts in which they charged respectively. They had been accordingly convicted and were sentenced by this court on the 18<sup>th</sup> of July 2019. The case proceeded to trial against the 3<sup>rd</sup> accused only on count 1 and 2 in which only he had been charged. For the purpose of this judgment I shall refer to the 3<sup>rd</sup> accused as ‘the accused’.

2. The accused stands charged with the following offences;

**Count 1**

**Statement of offence**

Possession with intent to trafficking in controlled drug, namely cannabis herbal materials contrary to section 9 (1) of the Misuse of Drugs Act, 2016 and punishable under section 7(1) of the Misuse of Drugs Act, 2016.

**Particulars of offence**

Albert Alexander Roderick Geers of Bel Ombre, Mahe, on 30<sup>th</sup> May 2017 to 31<sup>st</sup> May 2017 at his residence in Bel Ombre, Mahe, possessed the controlled drug having net weight of 3.945 kilo grams of cannabis unlawfully with intent to traffic in contravention of the said Act committed the offence of Trafficking.

**Count 2**

**Statement of offence**

Cultivation of a controlled drug namely cannabis plants contrary to section 6(2) of the Misuse of Drugs Act 2016 and punishable under the second schedule to the Misuse of Drugs Act, 2016

**Particulars of offence**

Albert Alexander Roderick Geers of Bel Ombre, Mahe, on 31<sup>st</sup> May 2017 at his residence in Bel Ombre, Mahe possessed 49 cannabis plants in doing cultivation

**The evidence**

3. Egbert Payet is an officer/agent who works with the Anti-Narcotic Bureau of the Seychelles police force (ANB). This force was at the time of the alleged commission of

the offence called the National Drugs Enforcement Agency (NDEA). After the latter was converted to the ANB, the witness and the other officers who he named in his evidence, remained in the same force and occupied the same offices and continued with outstanding duties including the case before the court. Agent Payet came to testify principally as the Exhibit Officer in this case. According to him on 31<sup>st</sup> May 2017 at around 9.50 am, he together with agents Yves Leon; Aubrey Labiche and Ryan Durup proceeded to the accused premises at Bel Ombre. There he observed the accused in the company of agents Servina and Louise entered a store of the accused by opening the door with a key and removing a police cordon that they had placed the day before.

4. Agent Payet goes on to state that after that, agent Leon started to take photographs of the scene whilst agent Servina removed materials and equipment from the inside the store of the accused. Those materials consisted of 49 plants, some fertiliser sprayer, an indoor sprinkler system, some seedling pots, several big black pots, two gunny bags containing herbal material and a packet of manure which was already open. Agent Payet assisted with placing the plants and material in a vehicle to bring to their ANB station. Some of the exhibits that had to be analysed were put in exhibit bags. Others were kept in the store at their station. Those sent for analysis were the 49 plants; the two gunny bags containing herbal materials and six clear glass jars with lids.
  
5. Agent Payet produced an open packet of manure; a fertilizer spray; five pieces of black seedling pots and two others; eighty five flower pots, some of which had contained the 49 plants; parts of a sprinkler system; two cans labelled “component grow”; five lighting equipment together with their electric cords and bulbs.. He handed over the exhibits to be send for analysis to agent Servina on the 1st of June 2017 and regained their possession back from Servina on the 20<sup>th</sup> of June 2017.He had prepared a letter of request for agent Servina regarding this analysis and same was produced to the court. The 49 plants; two gunny bags containing herbal materials and the jars were put in separate evidence bags. He also produced all the analysed items and they were marked as exhibits.

6. Agent Payet produced a second letter of request that he made, dated the 1 June 2017. This was in respect of ten evidence bags, seven containing plastic containers, one containing a blue plastic container, another containing herbal materials and one containing a jar of herbal materials which were in his possession. He handed all these items and the letter for analysis on 1<sup>st</sup> June and as the exhibit officer, he received the envelope back from Leon on 20 June 2017 for safe keeping.
7. Agent Payet also produced a third Letter of Request dated the 7<sup>th</sup> of June 2017 in respect of evidence envelope 23 containing a yellow plastic bag with herbal materials. The herbal materials together with the letter was given to agent Yves Leonin order to be sent for analysis. After analysis, it was handed over to agent Payet for safe keeping.
8. According to agent Payet, all the exhibits remained in his custody free from interferences from the time that they were recovered until he produced them to court, except when he had to remove them from the exhibit store and handed them to agents Servina and Leon.
9. Agent Payet also produced the items in his custody seized by agent Servina but not sent for analysis.
10. Ms Julia Volcere, the Government Analyst at the Forensic Laboratory, confirmed in her evidence that the exhibits were brought for analysis at her office by both agents Leon and Servina. Ms Volcere also states that she received the letters of request and their corresponding exhibit envelopes and found them as per their descriptions. Upon her analysis she found the following:
  - 10.1 For the exhibits brought for her analysis by agent Leon on 1st June 2017, she found that all the herbal materials in the clear plastic containers were cannabis, of which three had only traces. Similarly, the herbal material in a red; blue and white plastic bag was cannabis as well as that found in a clear glass jar. The total combined

weight of the cannabis was 952.8 grams. She produced a Certificate of Analysis to this effect in evidence.

10.2 With regards to the exhibits brought for her analysis by agent Pierre Servina on the 2<sup>nd</sup> of June, her examination found that the 49 plants were cannabis plants. The herbal materials in two white gunny bags, were also found to be cannabis. There was also traces of cannabis in the six clear glass jars. The total combined weight of the cannabis was therefore 2976.5 grams. She produced a Certificate of Analysis to this effect.

10.3 Lastly, the Analyst produced a Certificate of Analysis with regards to the exhibits brought to her for analysis on 7 June 2017. She testified that after her examination she came to the conclusion that the yellow plastic bag contained 15.7 grams of cannabis.

11. Therefore, the grand total of all of the cannabis that she analysed was 3,945 kilos grams.

12. Agent Leon testified that he together with the agents Servina, Louise and Ernesta proceeded to the house of the Accused mother premises at Bel Ombre. They reached there at around 20.20hrs on 30 May 2017. At the premises he saw the accused and his mother, the 3<sup>rd</sup> accused. He was instructed by agent Servina to take photos of the scene. On top of a wardrobe in the accused's bedroom, he saw seven plastic containers containing herbal materials. He also took photos of a red and white plastic bag next to the containers and a blue plastic bag at the bottom. He also took photos of a coffee jar containing herbal materials. After that he collected all those exhibits into his possession. He proceeded to the same house the day after in the company of the other agents. In the presence of the accused, a store was opened and he took photographs of some further exhibits of suspected cannabis plants and other items.

13. Agent Leon identified all the exhibits that he had taken at the scene and produced by agent Payet before the court, including the Letters of Request and the Certificates of Analysis and he stated that whilst they were in his possession there had been no interferences with them.
  
14. Agent Servina was on duty on the 30 May 2017 and at 19.40hrs he received an order to proceed to a house at Bel Ombre regarding a drug transaction. They proceeded in a patrol vehicle, together with agents Ernesta, Cherry and others. He knocked on the house door and shouted that they were NDEA officers. From the outside he could see both the accused and his mother and the latter refused to open the door and said that she was going to contact her lawyer. At that time he saw her moved from the accused bedroom to another part of the house and the toilet flushing a number of times and as a result he had to break down the door. Inside he saw the accused hiding behind a sofa and he proceeded to identify himself and the others to the occupants. The accused's mother informed him that the house belongs to her though she was not living there. Following this, agent Servina informed the mother of the accused that the agents require their assistance to search the house. According to agent Servina, the agents seized containers, including plastic containers and plastic bags containing herbal materials from the accused bedroom and toilet. The accused admitted to agent Servina that all the seized items were his. Following this, the accused was informed of his rights and cautioned. All seized items were handed over to agent Leon, after the latter had taken photographs.
  
15. According to agent Servina, that same night a search was effected outside the house and they came to an area that looked like a basement facing the sea. Upon being asked to open the door the accused informed that the key was at the Sunset Hotel. This door was then sealed in the presence of parties and an agent was left on sentry until the key could be obtained for further investigation. They came to the scene the day after on 31 May 2017. On this day agent Servina in the company of two other agents took the accused from the Central Station and brought him to his place of residence at Bel Ombre instead of the hotel where he had initially said the keys were. While at his place of residence in Bel Ombre, the accused took a key in the living room and the agents managed to open

the basement. The accused informed them that inside are cannabis plants that he is experimenting on. Inside that room, which the witness described as a store, an orange gunny bag and a white gunny bag containing herbal materials were seen. He saw lighting equipment including bulbs; 49 plants in pots and other materials and he said that all that were inside belongs to him. All these were handed over to exhibit officer Payet for safekeeping

16. In court agent Servina identified the 49 plants; the two gunny bags containing herbal materials and six clear glass jars with lids; a packet of manure; a fertilizer spray; five pieces of black seedling pots and two others; eighty five flower pots, parts of a sprinkler system; two cans labelled "component grow"; five lighting equipment together with their electric cords and bulbs, which he had seized from the store of the accused store on 31st May 2017.
17. He confirmed that on the 2<sup>nd</sup> of June he retrieved the 49 plants and herbal materials found in two white gunny and six clear glass jars from agent Payet and brought them for analysis at the Government Analyst after obtaining a Letter of Request from the former. He obtained the exhibits back from the Analyst on 20<sup>th</sup> June 2017, together with a Certificate of analysis. At the time that the exhibits were in his possession there had been no interferences with them.
18. Agents Wayne Ernesta and Alexander Cherry were also called by the prosecution and testified that their duties in the company of the others as stated by Agent Servina.
19. The accused testified under oath and he admitted having the possession of the cannabis in count 1 but disputes having it for the intention of trafficking. According to him the drugs that he had in his possession were for his personal consumption.

## **Analysis and determination**

### **Count 1.**

20. Having scrutinized the facts of the case in relation to the 1<sup>st</sup> count, I am satisfied that the prosecution has proven the chain of evidence beyond a reasonable doubt. All the exhibits and their connected items taken from the bedroom of the accused on 30 May 2017 were properly kept and stored by the exhibits officer agent Payet. They were correctly identified by their respective scene of occurrence agents Servia and Leon in their court testimonies. They were also identified positively by the Government Forensic Analyst, Julia Volcere, who, when it comes to the controlled drugs, confirmed that all of them were brought to her for analysis. There has been no breached of their chain of custody from the time that they were seized and produced. The cannabis materials were all seized from the bedroom of the accused on 30 May 2017 in his presence and that of his mother. I am equally satisfied based on the conclusion of the Government Analyst as found in her report that the herbal materials seized are cannabis a controlled classed as a class B drug in the Second schedule of the Misuse of Drugs Act 2016 and that the total amount seized was 3.945 kilo grams.

21. An individual can be convicted for drug trafficking in Seychelles in accordance to Section 7(1) as read with Section 2 and the 2<sup>nd</sup> Schedule of the Misused of Drugs Act 2016(the Act) when there is evidence that he or she is selling, brokering, supplying, transporting, sending, distributing a controlled drug or an individual has to offer to sell, broker, supply, transport, send, distribute a controlled drug or has done or offer to do *any act preparatory* to or for the purposes of is selling, brokering, supplying, transporting, sending, distributing a controlled drug. It is important to note that this applies to any quantity of drugs under Section 7(1) and any substances which is purported to be controlled drugs under Section 7(2). Under section 12 of the MDA, trafficking in a precursor of any Controlled Drug is now also an offence.



22. On the other hand, the offence of Possession with intent to traffic, as charged in the 1<sup>st</sup> count in this case, is found under Section 9 (1) of the Act. Here an individual who possesses a Controlled Drug, whether lawfully or not, with intent to traffic in contravention of the Act commits an offence of trafficking with intent and is liable to the same penalty as if the said individual was trafficking in the drug. Section 9 (2) and section 7(3) of the Act makes conviction of both offences possible alternatives for one another in the event that evidence shows that persons charged is not guilty of one but the other. The element of intention is very important in this offence and emphasis is on the ultimate intention to traffic in the controlled drugs found in the accused possession.
23. In its wisdom, the Legislature has also created a statutory presumption of intent to traffic provision under Section 19 (1) depending on the quantity and types of controlled drug that the accused is found in possession of. More specifically in relation to the facts of this case, section 19(1) (a) (i) provides that a person who is proved or presumed to have had in his or her possession or custody or under his or her control 25 grams or more of cannabis shall be presumed, until the person proves the contrary, to have had the controlled drug in his or her possession with intent to traffic in contravention of Section 9 of the Act.
24. Section 19 (2) of the Act further provides that:
- “Where the presumption in subsection (1) is not engaged, it shall be a question of fact whether a person possessed any controlled drug with intent to traffic.”*
25. In order for an accused to be found guilty of possession of a Controlled Drug with intent of trafficking contrary to Section 9 (1) of the Act, the Republic must therefore prove beyond a reasonable doubt, the following essential elements of the offence:
- a. The accused was in possession of a controlled substance under the Act; the *actus rea* for possession.

- b. The accused knew that he was in possession of a controlled substance. This knowledge can be actual or constructive or constructive possession under Section 20 of the Act, the *mens rea* for possession
- c. The accused had possession of that controlled drug with the intention of trafficking the in the said drug, the specific *mens rea* for trafficking with intent.

26. Where these elements are proven a presumption of intention to traffic will be triggered. From this, the burden will shift to the accused to disprove on balance of probabilities that he had no such intent. Alternatively, the burden will also shift if (a) and (b) are proven by the prosecution coupled with the facts that the controlled drug is above the prescribed weight indicated in Section 19.

27. In this case element (a) and (b) in paragraph 25 above have been admitted by the accused in his own testimony. This in his own evidence given under oath during the course of his examination in chief which states the following:

*Q: Mr Geers you have been charged with two counts before this court?*

*A: Correct.*

*Q: The first count is possession with intent to trafficking a controlled drugs. Correct?*

*A: Yes*

*Q: And the second count is cultivation of a controlled drug?*

*A: Yes*

*Q: And the second count relates to cannabis plants. Correct?*

*A: Correct*

*Q: Now, do you admit before this court that you were in possession of cannabis in respect of count one?*

*A: Yes I do admit of possession of it.*

*COURT TO WITNESS:*

*Q: So you admit possession of cannabis in respect of count one?*

*A: yes*

*Q: Is that the case?*

*A: Yes*

28. What the accused is denying is the specific intent to traffic in the controlled drug. This is made clear by him in the ensuring part of his Examination in Chief, which went as follows:

*Q: The charge which you face in respect of count one is not only of possession, but possession with intent, do you admit that you had intention to traffic the controlled drug?*

*A:Not at all.*

*Q: What you are admitting is that you were in possession?*

*A:Yes.*

29. Thereafter, the accused is seen on record giving his justification why he considered that he was not trafficking. He said that that he was experimenting on medical value of cannabis, treating his dyslexic condition and that cannabis has helped him. He also stated that he has done a process to extract cannabis oil for himself for other medical conditions

and the oil has been effective. According to him all attempt on his part to plead with the Attorney General to lower the charge to one of simple possession has failed. He also produced a number of newspaper clippings showing his public advocacy of medical marijuana used.

30. It is clear therefore that the accused having admitted possession of more than 25 grams of cannabis the burden is therefore upon him to disprove on a balance of probabilities that he had not possessed them with intent to traffic.

31. When it comes the intention to traffic under section 7(1) of the Act, the Republic can prove it in a number of ways. It can rely on the evidence of informants, or telephone calls and text messages which indicates trafficking or trying to traffic drugs. The Republic can also rely on circumstantial evidence such as the value or quantity of the drugs they found, or the presence of paraphernalia like scales, and baggies. All will have to depend on the facts and circumstances of each case and all these pieces of evidence must pass the test of relevance and admissibility.

32. In the case of *R vs Louise SCR 3/18*, this court had this to say when it comes to evidence that can support the element of intention in this offence:

*“[it] is essentially a mental element, the Republic can produced the evidence of confession; evidence from informants; telephone information or the presence of paraphernalia such as scales. All this in an attempt to show that the controlled Drug in the possession of the accused person was destined and intended for trafficking in terms of the above referred provisions of the Misused of Drugs Act”.*

33. There cannot be one size fits all scenario, as each case will depend on the facts peculiar to that case. The important factor is to prove a future intention from facts, not an actual one. If the intent is contemporaneous with the act of possession, this would prove the existence of actual trafficking. A person has intention with respect to conduct if he or she means to engage in that conduct. A person has intention with respect to a circumstance if they believe that it exists or will exist. A person has intention with respect to a result if

they mean to bring it about or if they are aware that it will certainly occur in the ordinary course of events. There is rarely any direct evidence of a defendant's intent, as nearly no one who commits a crime willingly admits it. To prove criminal intent, one must rely on circumstantial evidence. Through the process of reasoning, the different facts presented throughout the case can be used to infer a conclusion, leading to a verdict.

34. In the case of *R v Morris* (1995) 2 Cr App R 69at75, Morland J said that:

*"...evidence of large amounts of money in the possession of a defendant or an extravagant lifestyle on his part, prima facie explicable only if derived from drug dealings, is admissible in cases of possession of drugs with intent to supply if it is of probative significance to an issue in the case."*

35. The statement above partly echoes section 19 (3) of the Act which provides:

*"In determining whether a controlled drug was possessed with intent to traffic under subsection (1) or subsection (2), the Court shall have regard to all relevant circumstances, including where applicable any evidence that the person has engaged in a deliberate pattern of activity whereby amounts in his or her possession at any time are maintained at a level below a threshold specified in subsection (1)."*

36. It is with these principles in mind that I set about to see whether the Prosecution has proven beyond a reasonable doubt that the accused intended to traffic in the controlled drug that he admitted to be in possession of.

37. The prosecution having proven such a large amount of cannabis in possession of the accused, the latter attempted to discharge the onus of proof by stating that it was for his own personal use as he was self-medicating his medical condition. However, this does not explain the large amount of cannabis in his possession, in order to treat his alleged ailment. He did not need the total number of kilograms seized from his possession for this purpose. He has not convinced this court on a balance of probabilities that he would need so much of cannabis in order to treat his dyslexia. As I have further found below, the amount of cannabis in his possession only renders it more probable that he had the

intent to traffic. It is more probable that he had such amounts for the purpose of supplying or selling.

38. The promotional and publicity campaign carried out by the accused on the legalisation of cannabis proves that the accused is a champion and advocate of the consumption of this drug in this country, proof of this is abundant in this case and they are mostly produced by him. Evidence adduced in the several letters written to state officials, including the then President of the Republic shows a great zeal and clear intent to promote cannabis use in Seychelles, albeit for medical reasons. The only irresistible inference that the court draws from this is that the large amount of cannabis was supplying or destined to be supplied to ordinary Seychellois in the accused quest to make available what he considered as the most effective medicines to a number of common ills.

39. The evidence shows beyond a reasonable doubt that the accused was carrying out the planting of cannabis plant in a controlled environment. The lights installation; the water supply installation; the number of cannabis plants in their containers; similar empty containers of various sizes; water hoses; fertilisers; the seedling trays; the variety of cannabis plants sizes; the sprayer and the systematic packaging in plastic containers of the cannabis found in his possession shows only one thing. It shows that he was carrying out cultivation of cannabis on a large scale. This drug was then packaged in containers of exact sizes and distributed by him. The glass jars that were sent for analysis shows traces of cannabis inside, showing that cannabis material was once in them and had been removed by the possessor of the jars, who is no other than the accused himself.

40. The accused has not been able to disprove on a balance of probabilities that all these evidence does not show that it was not for the purpose of trafficking.

41. I am satisfied that the Republic have shown beyond a reasonable doubt that the accused was possessing the controlled drug with intent to traffic in it. Accordingly, I find that the

Republic has proven the 1<sup>st</sup> count beyond a reasonable doubt and I convict the accused under this count.

## **Count 2**

42. I shall now consider the charge of cultivation under Count 2. “*Cultivation*” like “*possession*” of dangerous drugs required some mental element. In the case of **R v. Gill (1983) S.L.R. 22**, Seaton CJ following the decision in **Rampersad v. The Queen (1975) M.L.R. 5**, held that the Prosecution had “*failed to establish any overt act to connect the accused with the crime*” and hence acquitted the accused. However, in the Canadian case reported in the **English and Empire Digest (Vol 15) Para 1082, R v. Busby**, it was held that –

*“Evidence of some overt act is not necessary for conviction where the circumstantial evidence points to an irresistible inference of cultivation”.*

43. The possession of the 49 cannabis plants is not being admitted when it comes to the charge of cultivation of the controlled drug under count 2. Therefore, the prosecution bears the burden of proof to prove beyond a reasonable doubt that the accused had physical possession of the 49 plants; that he knew that they were a controlled drug and that they consisted of cannabis plants which are a controlled drug.

44. Having considered the testimony of the Government Analyst I am also satisfied, beyond a reasonable doubt, that the 49 plants being the subject matter of the 2<sup>nd</sup> count are cannabis plants which is a controlled drug in the 2<sup>nd</sup> Schedule of the Act. I equally scrutinized all the relevant testimonies including that of the accused and having done so I find that the 49 plants produced before the court as exhibits were seized by Agent Servina in a store kept by the accused at his residence on the 31stMay 2017.

45. As to whether the 49 plants before the court are the same ones seized from the accused, I am satisfied beyond a reasonable doubt that they are. According to agent Servina, he seized those plants in the accused store on the 31 May 2017. He on the same day gave them to agent Payet for safe keeping as the exhibit officer. He took it from agent Payet and brought them for analysis to Ms Julia Volcere, after being analysed he took them back to agent Payet and it was the latter that produced them to the court. All custodians speaks of the fact that nobody tampered with them whilst they were in their possession. I am hence of the view that the prosecution has managed to prove the chain of custody beyond a reasonable doubt.
46. The accused upon entering his store together with the agents said that all that was in the store belonged to him. The court held a *voire dire* on the admissibility of what amounted to a confession and found that the verbal statement was made voluntarily by the accused. This amounts to an admission of possession of the store content, including the 49 cannabis plants.
47. I note further that that the evidence of agents Servina, Leon and others clearly established that it was the accused who went and retrieved a key, from his living room, to open the door to his store on 31 May 2017. That store was part of his dwelling house. The store could not be open the day before and was cordoned off and guarded overnight as the accused had informed the agents that he would make available the key to the door the day after. The possession of the key to this room raises a presumption of possession of the cannabis plant under section 20(1)( C) of the Act, which put a legal burden of proof to disprove on a balance of probabilities that the controlled drug in that store was not in his possession.
48. Having scrutinized the entirety of the evidence in this case, I find the accused has not managed to disprove the presumption of possession established by the prosecution here. He had the exclusive possession of the key to the store and



exclusive possession of the content of that store including the 49 plants. Something that he admitted as I have found above.

49. It is clear however that possession is not sufficient to prove this charge as there has to be an overt act that shows that the accused was cultivating the plant. This act can be established by direct or circumstantial evidence. As to the existence of such fact, I have thoroughly considered the facts and circumstances of this case when it comes to evidence pointing to cultivation on the part of the accused. I give specific consideration of the evidence of both the accused and the exhibit officers, especially the evidence given under cross examination.
  
50. In my view, the testimony of the accused taken and considered as whole shows that he was cultivating the controlled drug that was found in his bedroom on 30 May 2017. This is apparent in his testimony. He stated that he processed cannabis plants by extracting its oil from its stems. According to him the latter has no medical purposes which has to be discarded. He extracts the oil from the flowers as this is where he gets the oil that he used for medical purposes. He even infused the oil with coconut oil for topical applications. To him cannabis cure such ailments as cancer; addictions; glaucoma and his own dyslexia. In his own words, he needs a large amount of cannabis plants to produce a relatively small amount of cannabis oil. I consider this evidence with the exhibits found in his store and concludes that the Republic has proved beyond a reasonable doubt his cultivation occurred in the said store. It is no coincidence that a person who admits to processing cannabis plants into cannabis oil, would be having cannabis plants in different states of being processed.
  
51. The evidence shows beyond a reasonable doubt that the accused was carrying out the planting of cannabis plant in a controlled environment. He admitted that the content of the store was his. This includes the numerous lights installation; the water supply installations; the number of cannabis plants in their containers; empty plant containers of various sizes; water hoses; fertilisers; the seedling trays; the cannabis plants growing in

pots ; the sprayer and the systematic packaging in plastic containers of the cannabis found in his possession shows only one thing. It shows that he was carrying out indoor cultivation of cannabis on a large scale.

52. In a letter written to the then President, Exh D 4 and one written to the Principal Secretary of Health written in 2013 the accused sought permission to grow in a controlled area medical marijuana to produce hemp oil to directly target cancer. He wrote that this would be *a great beginning of implementing medical marijuana in the government system and to develop in a controlled and monitoring fashion and future research development*. In his evidence he stated that he had wanted to get the permission so as to produce cannabis for cancer treatment. However, no permission was given to him and he forged ahead in this enterprise regardless. Hence the commission of this offence.

53. I therefore find the 2<sup>nd</sup> count also proven beyond a reasonable doubt and I convict him accordingly.

54. The court is aware that it has given this judgment at a time when there is an ongoing debate with regards to legalisation of cannabis use in Seychelles. The court is as a result conscious of the fact that its decision may be taken by some individuals as going against the spirit of these discussions. However, our democracy puts the Rule of Law as one of its central tenet. This means that the law of the land must be obeyed and upheld at all times no matter the personal views; sentiments or identity of the individuals on the propriety of the law. In this case, at the time of the commission of the offences charged up to now the possession of cannabis with intent to traffic and cultivation of cannabis were and are still criminal offences on our statute books. As a result unless and until the Legislature changes the legal frameworks this court will have no other choice but enforced the law of the land.

Signed, dated and delivered at Ile du Port on 18 July 2022

---

Govinden CJ